

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201808018	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/22/2018 6:44 PM	Location of Incident: 49th Street Subway Station; Transit Bureau District 1 stationhouse	Precinct: 18	18 Mo. SOL 3/22/2020	EO SOL 11/6/2020	
Date/Time CV Reported Thu, 09/27/2018 10:25 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/27/2018 10:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Luis Rodriguez	02107	926441	TB DT01
2. POM Grant Okolie	14431	956988	TB DT01

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wilfred Martinez	00988	924703	TB DT01
2. POM Kyle Ting	03691	961372	TB DT01
3. POM Md Samsuddin	15872	952204	TB DT01
4. POM Manuel Abreu	11068	956364	TB DT01

Officer(s)	Allegation	Investigator Recommendation
A.SGT Luis Rodriguez	Force: At the 49th Street Subway Station in Manhattan, Sergeant Luis Rodriguez used physical force against § 87(2)(b)	
B.SGT Luis Rodriguez	Abuse: Sergeant Luis Rodriguez failed to secure medical treatment for § 87(2)(b)	
C.POM Grant Okolie	Abuse: At the Transit Bureau District 1 stationhouse, Police Officer Grant Okolie refused to provide his name to § 87(2)(b)	

### Case Summary

On September 27, 2018, § 87(2)(b) was contacted by the CCRB regarding case #201807459, when he filed this complaint.

On September 22, 2018, at approximately 6:45 p.m., § 87(2)(b) was arrested by Sgt. Luis Rodriguez and PO Wilfred Martinez, of Transit Bureau District 1, inside of the 49<sup>th</sup> Street subway station in Manhattan for criminal tampering in the first degree, unauthorized sale of a farecard, and loitering (BR 14). Sgt. Rodriguez approached § 87(2)(b) wrapped his arms around his chest, and handcuffed him (**Allegation A: Force**, § 87(2)(g) § 87(2)(b) told Sgt. Rodriguez that he wished to go to the hospital (**Allegation B: Abuse of Authority**, § 87(2)(g) § 87(2)(b). While being processed at the Transit Bureau District 1 stationhouse, § 87(2)(b) asked PO Grant Okolie for his name and PO Okolie allegedly did not provide it (**Allegation C: Abuse of Authority**, § 87(2)(g) § 87(2)(b).

The investigation was provided with four BWC recordings of this incident. Full BWC recordings are located in and can be viewed from the Investigative Actions #21-24. The relevant video clips are embedded and discussed in greater details below.

### Findings and Recommendations

**Allegation (A) Force: At the 49th Street Subway Station in Manhattan, Sergeant Luis Rodriguez used physical force against § 87(2)(b)**

**Allegation (B) Abuse of Authority: Sergeant Luis Rodriguez failed to secure medical treatment for § 87(2)(b)**

It is undisputed that Sgt. Rodriguez made physical contact with § 87(2)(b) to place him in handcuffs. It is also undisputed that § 87(2)(b) told Sgt. Rodriguez and PO Martinez at various instances during this incident that he was in pain and wished to go to the hospital, and that medical treatment was never provided to him.

§ 87(2)(b) (BR 01) stated that he entered the southbound N, Q, R line 49<sup>th</sup> Street subway station. § 87(2)(b) retrieved a wallet from his pants pocket and counted his money when Sgt. Rodriguez “tackled” him. § 87(2)(b) described the “tackle” as Sgt. Rodriguez wrapping his arms around § 87(2)(b)’s chest area, bear hugging him, and then pushing § 87(2)(b) towards a wall. § 87(2)(b) extended his arms to brace himself, and only his hands made contact with the wall. Sgt. Rodriguez told § 87(2)(b) several times, “Put your hands behind your back.” § 87(2)(b) was confused, because he could not see who grabbed him and Sgt. Rodriguez had not identified himself as an officer. § 87(2)(b) asked Sgt. Rodriguez what was going on. Sgt. Rodriguez then said that he was the police, asked § 87(2)(b) to put his hands behind his back, and told him several times to stop resisting. § 87(2)(b) admitted that he tensed his arms up because he was upset, but denied resisting in any other way. § 87(2)(b) brought his hands behind his back and Sgt. Rodriguez handcuffed him. § 87(2)(b) sustained back pain. § 87(2)(b) initially stated that, while en route to Transit Bureau District 1 stationhouse, he complained to Sgt. Rodriguez of back pain and requested to be taken to the hospital. § 87(2)(b) later stated that he only asked PO Martinez for medical attention in the holding cell at the stationhouse. § 87(2)(b) was transported to Manhattan Central Booking and was then released. § 87(2)(b) did not receive medical treatment.



§ 87(2)(b)



Body Worn Camera footage does not capture § 87(2)(b)'s apprehension.

Sgt. Rodriguez's BWC [§ 87(2)(b) clip 1.mp4] (BR 02) shows Sgt. Rodriguez escorting § 87(2)(b) to a marked police SUV and placing him inside. Between 00:08 and 00:40 minutes, § 87(2)(b) says to Sgt. Rodriguez, "I need to go to the hospital." Sgt. Rodriguez replies, "What is the illness?" § 87(2)(b) says, "Yeah. You tackled me from behind. My spine." Sgt. Rodriguez denies tackling § 87(2)(b) and says, "You wanting to go to the hospital makes you soft," and then asks, "What is your illness?" § 87(2)(b) continues to insist that Sgt. Rodriguez tackled him.

PO Martinez's BWC § 87(2)(b) shows PO Martinez walk § 87(2)(b) into the holding cell. At 00:10 minutes, § 87(2)(b) says to PO Martinez, "I want to go to the hospital." PO Martinez replies, "Okay. What for?" § 87(2)(b) replies, "He [referring to Sgt. Rodriguez] tackled me from my back, man." PO Martinez then says, "Lower back?" and § 87(2)(b) replies, "Yes."

Sgt. Rodriguez's (BR 03) testimony was consistent with the video evidence with the following additional information. Sgt. Rodriguez stated that he approached § 87(2)(b) from behind, grabbed both of his hands, and said, "This is NYPD, please cooperate and place your hands behind your back." § 87(2)(b) complied and he then handcuffed him without any struggle. Sgt. Rodriguez denied bear hugging § 87(2)(b) or pushing him towards the wall. Sgt. Rodriguez acknowledged that § 87(2)(b) requested to go to the hospital due to back pain. At approximately 9 p.m., after § 87(2)(b) was lodged in the holding cell, PO Manuel Abreu, of Transit Bureau District 1, debriefed § 87(2)(b) to gather intel information. Sgt. Rodriguez was not present during the debriefing, but was informed by PO Abreu that § 87(2)(b) refused to go to the hospital. Therefore, EMS was not requested for § 87(2)(b) nor was he transported to the hospital. Sgt. Rodriguez denied refusing to obtain medical attention to § 87(2)(b) and said that § 87(2)(b) rejected it voluntarily. Sgt. Rodriguez denied that PO Martinez informed him that § 87(2)(b) requested to go to the hospital while he was in the holding cell and did not recall if he informed PO Martinez of his conversation with PO Abreu.

Sgt. Rodriguez noted in his memo book (BR 16), "Defendant requested to go to the hospital and was asked the nature of illness and stated his back hurt. EMS to be called from the Command."

Sgt. Rodriguez did not note anywhere in the Command Log that § 87(2)(b) refused medical attention, stating that he wrote down PO Abreu's statement in his memo book.

PO Martinez (BR 04) stated that he saw Sgt. Rodriguez approach § 87(2)(b) from behind and bearhugged him. PO Martinez approached and handcuffed § 87(2)(b). PO Martinez did not recall, independent of the video evidence, whether § 87(2)(b) asked Sgt. Rodriguez for medical attention. However, he acknowledged that § 87(2)(b) requested medical attention after he was placed in the holding cell at the stationhouse, and provided a consistent account with that of § 87(2)(b)'s and the video evidence. PO Martinez added that after leaving the holding cell area, he informed Sgt. Rodriguez of § 87(2)(b)'s request. At some later point, Sgt. Rodriguez told PO Martinez that § 87(2)(b) would not be taken to the hospital because he refused medical attention. Sgt. Rodriguez did not tell PO Martinez whether he spoke to § 87(2)(b). PO Martinez did not recall seeing PO Abreu at the stationhouse or speaking to him. PO Martinez denied refusing to obtain medical treatment for § 87(2)(b). It was Sgt. Rodriguez's decision not to transport § 87(2)(b) to the hospital.

PO Abreu (BR 05) stated that he was in the stationhouse when he was approached by Sgt. Rodriguez who asked if he knew § 87(2)(b). PO Abreu said yes. Sgt. Rodriguez then asked PO

Abreu to speak to § 87(2)(b) because he refused to be fingerprinted. PO Abreu agreed. When PO Abreu entered the holding cell area, § 87(2)(b) recognized him and greeted him with a smile. PO Abreu asked § 87(2)(b) why he was refusing to be fingerprinted. § 87(2)(b) told PO Abreu that he wanted to delay the arrest process for as long as possible to get Sgt. Rodriguez and PO Martinez in trouble. PO Abreu told § 87(2)(b) that he was just delaying himself. § 87(2)(b) agreed, said that he was hungry, and then added, “You know what, I am ready to be fingerprinted. I am done.” PO Abreu denied that § 87(2)(b) complained to him of any pain or injuries, requested medical attention, or stated that he did not wish to go to the hospital. However, PO Abreu noted that at some point during their conversation, § 87(2)(b) complained that Sgt. Rodriguez pushed him during the initial apprehension, but did not elaborate further. After leaving the holding cell area, PO Abreu saw PO Martinez by the Desk Officer’s desk and told him that § 87(2)(b) was hungry and that he was ready to be fingerprinted. PO Abreu then walked by Sgt. Rodriguez’s office and also told him that § 87(2)(b) was ready to be fingerprinted. PO Abreu did not remember if he said anything else to Sgt. Rodriguez, but denied telling him that § 87(2)(b) refused medical attention.

The Command Log (BR 08) lists § 87(2)(b) s physical condition as “A/N,” which stands for apparently normal.

The request for Medical Treatment of Prisoner Form for § 87(2)(b) returned negative results (BR 07).

Patrol Guide Procedure 221-01 states that an officer must apply no more than the reasonable force necessary to gain compliance from an uncooperative subject (BR 17).

Patrol Guide Procedure 210-04 (BR 06) states that an officer must provide medical attention to a sick or injured prisoner by requesting an ambulance or transporting him to the hospital, if necessary.

§ 87(2)(g)

It is undisputed that § 87(2)(b) complained of back pain and asked Sgt. Rodriguez and PO Martinez for medical attention. PO Martinez acknowledged § 87(2)(b) s request and stated that Sgt. Rodriguez ultimately decided not to remove § 87(2)(b) to the hospital. Sgt. Rodriguez also acknowledged § 87(2)(b) s request and even noted in his memo book that he was going to call for EMS from the Command. Sgt. Rodriguez explained that his decision not to take § 87(2)(b) to the hospital or call for EMS was based on PO Abreu telling him that § 87(2)(b) refused medical attention, which was not corroborated by PO Abreu’s account. § 87(2)(g)

**Allegation (C) Abuse of Authority: At the Transit Bureau District 1 stationhouse, Police Officer Grant Okolie refused to provide his name to § 87(2)(b)**

§ 87(2)(b) did not allege asking PO Okolie for his name. This allegation was captured on Sgt. Rodriguez’s BWC. It is undisputed that § 87(2)(b) asked PO Okolie for his name, however, it is disputed whether PO Okolie refused to provide it to § 87(2)(b)



§ 87(2)(b)

Sgt. Rodriguez's BWC (BR 09) shows § 87(2)(b) standing by the front desk at the Transit Bureau District 1 stationhouse. At 00:13 minutes, PO Okolie says that § 87(2)(b) is affiliated with the gang known as "Crips." PO Okolie is not captured on the video, but his voice is heard. Between 00:17 and 00:45 minutes, § 87(2)(b) says, "Gang member Crips? Are you fucking kidding me?" He then continues, "Yo, § 87(2)(b) what is your name?" and then repeats, "What is your name, sir?" Shortly after, PO Martinez escorts § 87(2)(b) away from the desk. The video does not capture PO Okolie providing his name to § 87(2)(b) or responding to his request in any manner.

PO Okolie (BR 10) testified that when § 87(2)(b) was brought to the stationhouse, Sgt. Rodriguez asked him to run a warrant check. While performing this check, PO Okolie was sitting by the TS Operator's desk with his back turned towards § 87(2)(b). PO Okolie did not hear § 87(2)(b) ask him for his name, stating that there was "a lot of rumbling," and that he was concentrated on running the warrant check. PO Okolie denied refusing to provide his name to § 87(2)(b) during this incident, and said that if he heard the request he would have provided his name.

Sgt. Rodriguez (BR 03) acknowledged hearing § 87(2)(b) ask PO Okolie for his name after the latter said that § 87(2)(b) was affiliated with the "Crips" gang. At that time, PO Okolie was sitting sideways behind the TS Operator's desk several feet away from § 87(2)(b). Sgt. Rodriguez did not remember if PO Okolie provided his name to § 87(2)(b) and did not see PO Okolie acknowledging § 87(2)(b)'s request in any manner.

PO Martinez (BR 04) did not hear § 87(2)(b) ask PO Okolie for his name, or PO Okolie refusing to provide his name to § 87(2)(b).

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
  - § 87(2)(b)
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  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
- Sgt. Luis Rodriguez has been a member-of-service for 18 years and has been a subject in five CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(b)

- PO Grant Okolie has been a member-of-service for four years and has been a subject in one CCRB complaint and one allegation that was closed as complainant uncooperative.

§ 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This case is not suitable for mediation due to § 87(2)(b)'s arrest.
- As of November 9, 2018, no Notice of Claim has been filed regarding this incident (BR 12).

- § 87(2)(b)

Squad No.: 4

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date